

quash or modify the subpoena if it is unreasonable and oppressive or for other good cause shown, or (2) require the person in whose behalf the subpoena was issued to advance the reasonable cost of producing subpoenaed books and papers. Where circumstances require, the Board may act upon such a request at any time after a copy has been served upon the opposing party.

(e) *Form; issuance.* (1) Every subpoena shall state the name of the Board and the title of the appeal and shall command each person to whom it is directed to attend and give testimony, and if appropriate, to produce specified books and papers at a time and place therein specified. In issuing a subpoena to a requesting party, the Administrative Judge shall sign the subpoena and may in his discretion, enter the name of the witness and otherwise leave it blank. The party to whom the subpoena is issued shall complete the subpoena before service.

(2) Where the witness is located in a foreign country, a letter rogatory or subpoena may be issued and served under the circumstances and in the manner provided in 28 U.S.C. 1781-1784.

(f) *Service.* (1) The party requesting issuance of a subpoena shall arrange for service.

(2) A subpoena requiring the attendance of a witness at a deposition or hearing may be served at any place. A subpoena may be served by a United States marshal or deputy marshal, or by any other person who is not a party and not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by personally delivering a copy to that person and tendering the fees for one day's attendance and the mileage provided by 28 U.S.C. 1821 or other applicable law.

(3) The party at whose instance a subpoena is issued shall be responsible for the payment of fees and mileage of the witness and of the officer who serves the subpoena. The failure to make payment of such charges on demand may be deemed by the Board as a sufficient ground for striking the testimony of the witness and the evidence the witness has produced.

(g) *Contumacy or refusal to obey a subpoena.* In case of contumacy or refusal to obey a subpoena by a person who re-

sides, if found, or transacts business within the jurisdiction of a U.S. District Court, the Board will apply to the Court through the Attorney General of the United States for an order requiring the person to appear before the Board or a member thereof to give testimony or produce evidence or both. Any failure of any such person to obey the order of the Court may be punished by the Court as a contempt thereof.

[44 FR 13015, Mar. 9, 1979. Redesignated and amended at 60 FR 57939, Nov. 24, 1995]

#### **§ 955.36 Effective Dates and Applicability.**

The provisions of §§ 955.9 and 955.13 took effect on October 1, 1995. Pursuant to the Contract Disputes Acts of 1978 (41 U.S.C. 601-613), §§ 955.13 and 955.35 apply to appeals relating to contracts entered into on or after March 1, 1979. All other provisions of this part 955 took effect February 18, 1976. Except as otherwise directed by the Board, these rules shall not apply to appeals docketed prior to their effective dates.

[60 FR 57939, Nov. 24, 1995]

### **PART 956—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DISCIPLINARY ACTION FOR VIOLATION OF RESTRICTIONS ON POST-EMPLOYMENT ACTIVITY**

#### **Sec.**

- 956.1 Authority for rules.
- 956.2 Scope of rules.
- 956.3 Definitions.
- 956.4 Initiation of proceedings.
- 956.5 Answer.
- 956.6 Hearing election.
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- 956.10 Respondent's failure to appear at the hearing.
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- 956.12 Continuances and extensions.
- 956.13 Hearings.
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- 956.15 Presiding officer.
- 956.16 Burden of proof and evidence.
- 956.17 Discovery—depositions.
- 956.18 Interrogatories to parties, admission of facts, and production of documents.
- 956.19 Transcript.
- 956.20 Proposed findings and conclusions.
- 956.21 Decisions.